

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ALABAMA
NORTHEASTER DIVISION

FILED

JAN 23 2019

UNITED STATES OF AMERICA,

vs.

JAMES OLIVER MCDANIEL,

Defendant.

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)
)UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ALABAMA

Case No. 5:18-cr-559-MHH-JHE

GUILTY PLEA ADVICE OF RIGHTS CERTIFICATION¹**Instructions to Counsel**

Before the offer of a plea of guilty, counsel for the defendant must personally discuss, in detail, each of the following matters with the defendant. If able, the defendant should inscribe his or her initials in the appropriate places on this form. Once completed, the certification will be filed on the record.

A. At the Change of Plea Hearing

1. I will be placed under oath.
2. I will be subject to penalties for perjury or further prosecution if I willfully make a false statement.
3. If anything is said or done in court that I do not understand, I must tell the judge.
4. I may be asked about my education and job history and whether I read, write, and understand the English language.
5. I will be asked if I have any mental or emotional impairment or physical illness that might affect my ability to understand the court proceedings.
6. I will be asked if I have taken any drugs, medications, or other substances that might affect my ability to understand the court

I understand,

JM

I understand,

JM

I understand,

JM

I understand,

JM

I understand,

JM

I understand,

JM

¹This form was approved for use in the United States District Court for the Northern District of Alabama on May --, 2013. Do not use an earlier version.

proceedings.

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| 7. | I will be asked if my plea is voluntary. | I understand,
<u>JM</u> . |
| 8. | I will be asked if anyone coerced or threatened me to plead guilty. | I understand,
<u>JM</u> . |
| 9. | I will be asked if I have any complaints about my attorney. | I understand,
<u>JM</u> . |
| 10. | I will be asked: | |
| a. | If I received the indictment; | I understand,
<u>JM</u> . |
| b. | If I read the indictment or my attorney read it to me; and | I understand,
<u>JM</u> . |
| c. | If I understand the charge(s) against me. | I understand,
<u>JM</u> . |
| 11. | I will be asked: | |
| a. | If I have read the plea agreement or my attorney read it to me; | I understand,
<u>JM</u> . |
| b. | If I had enough time to discuss the content of the plea agreement with my attorney; | I understand,
<u>JM</u> . |
| c. | If the plea agreement includes all agreements with the prosecutor; | I understand,
<u>JM</u> . |
| d. | If I personally understand the content of the plea agreement. | I understand
<u>JM</u> . |

B. Explanation of Substantive Rights

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| 1. | I am not required to plead guilty to any charge. | I understand,
<u>JM</u> . |
| 2. | By pleading guilty, I am giving up the following: | |
| a. | The presumption of innocence; | I understand,
<u>JM</u> . |
| b. | A speedy and public jury trial in which the Government must prove each and every element of the charge(s) beyond a reasonable doubt; | I understand,
<u>JM</u> . |

- c. The right to confront the Government's witnesses; I understand, Jm.
- d. The right to cross-examine the Government's witnesses; I understand, Jm.
- e. The right to call witnesses on my behalf; I understand, Jm.
- f. The right to choose to testify. I understand, Jm.
3. If I decided to testify at trial, I would be placed under oath, and I would be subject to cross-examination by the prosecutor. I understand, Jm.
4. If I decided not to testify at trial or to offer any evidence in my defense, those facts could not be used against me. I understand, Jm.
5. By pleading guilty, I am not giving up the right to be represented by a Constitutionally adequate attorney. I understand, Jm.

C. Explanation of the Charge(s)

1. I will be asked if I had enough time to discuss the case with my attorney. I understand, Jm.
2. I will be asked if my attorney has explained the elements of the charge(s) against me. I understand, Jm.
3. The judge will not accept my guilty plea(s) until he or she is satisfied that the Government can prove a factual basis for each element of the charges to which I am pleading guilty. I understand, Jm.
4. If my guilty plea(s) is accepted by the judge, only two things remain to be done:
- a. A United States Probation Officer will conduct a presentence investigation and produce a Presentence Investigation Report; and I understand, Jm.
- b. The judge will impose a sentence. I understand, Jm.

D. Explanation of Possible Penalties

1. I will be asked if my attorney has explained the mandatory statutory minimum sentence (if any) and the maximum I understand, Jm.

statutory penalty for each charge against me.

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| 2. | If a mandatory statutory minimum sentence is applicable, the judge cannot sentence me below the minimum sentence unless a rare exception exists. | I understand,
<u>jm</u> . |
| 3. | The judge is required to consider the United States Sentencing Guidelines before imposing a sentence. | I understand,
<u>jm</u> . |
| 4. | I will be asked if my attorney has discussed the Guidelines with me and the fact that the judge may sentence me to a higher or lower sentence. | I understand,
<u>jm</u> . |
| 5. | The judge will require me to make restitution to any and all victims of the charge(s) to which I am pleading guilty. | I understand,
<u>jm</u> . |
| 6. | The amount of restitution, and the schedule of its payment, will be based on the information within Presentence Investigation Report. | I understand,
<u>jm</u> . |
| 7. | The judge may require that I be supervised by the United States Probation Office following any term of imprisonment. | I understand,
<u>jm</u> . |
| 8. | The judge may be required to impose a fine, unless: | I understand,
<u>jm</u> . |
| | a. I am unable to pay a fine, or; | I understand,
<u>jm</u> . |
| | b. Imposing a fine would unduly burdensome. | I understand,
<u>jm</u> . |
| 9. | If I have financial means, the judge may require me to pay all or part of the costs of my imprisonment or supervision. | I understand,
<u>jm</u> . |
| 10. | If I am not a citizen of the United States, I may be deported as a result of the guilty plea. | I understand,
<u>jm</u> . |

E. Plea Agreement

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| 1. | If there is a plea agreement, the agreement will be disclosed on the record. | I understand,
<u>jm</u> . |
| 2. | The judge is not bound by the terms of plea agreement, and if the agreement is rejected, I cannot withdraw the guilty plea. | I understand,
<u>jm</u> . |

F. Certification of Defendant

1. I, James McDaniel, hereby acknowledge that my attorney, whose name is signed to the attorney certification below, has explained to me, in detail each of the matters set out above.
2. I also certify that I am satisfied with the representation my attorney has provided me, and that I have no complaints about any aspect of his or her representation of me.
3. I further certify that I am not under the influence of any alcoholic beverage, intoxicating liquor, drugs, medication, or other substance that affected my ability to understand all of the matters set out above.
4. Finally, I certify that I am entering my guilty plea(s) because I am in fact guilty, and I request that the court accept my plea(s).

1-18-19
Date

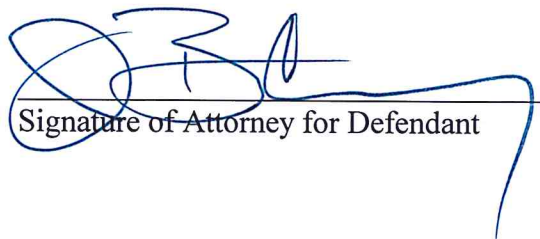

Signature of Defendant

G. Certification of Counsel

As counsel of record for the above named defendant, I hereby certify that:

1. I have discussed with the defendant, in detail, each of the matters set out above;
2. I have observed the defendant today, before the plea proceeding, and I am aware of no reason why the defendant is not competent to enter a guilty plea(s) at this time; and,
3. I am aware of no reason, at this time, why the defendant's guilty plea(s) should not be accepted by the court.

1/18/19
Date


Signature of Attorney for Defendant